

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KATHLEEN MILLER,  
Plaintiff

v.

VERIZON COMMUNICATIONS, INC.,  
Defendant

Civil Action No.: 05-30117-KPN

**PLAINTIFF'S MOTION TO FILE A REPLY MEMORANDUM CONCERNING  
PLAINTIFF'S MOTION TO AMEND RULE 56.1 RESPONSE**

NOW COMES the Plaintiff, Kathleen Miller, in the instant case, and respectfully requests that this Honorable Court allow the within Motion for the following reasons:

1. The Plaintiff has proposed an Amended Response to Defendant's Statement of Undisputed Facts to categorize the Plaintiff's Additional Facts (Paragraphs 109-287). The Defendant has filed an Opposition to the Plaintiff's Motion to Amend her Rule 56.1 Response that contains several inaccuracies.
2. Contrary to the Defendant's assertions, the proposed amendments serve to clarify, not confuse, the facts submitted to the Court concerning the Defendant's Motion for Summary Judgment and the Plaintiff's Opposition to the same.
3. The Plaintiff has not included additional facts in her Rule 56.1 Response, but rather, has merely classified the Additional Facts section in an attempt to assist the Court in reviewing the same, and to address the Defendant's concerns raised in its Motion To Strike.
4. The Defendant would not be prejudiced by the allowance of the amendment.

WHEREFORE, the Plaintiff respectfully requests that this Court allow the Plaintiff's to file for the Court's consideration the Plaintiff's Reply Memorandum Concerning Plaintiff's Motion To Amend Rule 56.1 Response (Exhibit A hereto).

Respectfully submitted:

The Plaintiff  
KATHLEEN MILLER

By: /s/ Michael O. Shea  
Michael O. Shea, Esq.  
BBO No. 555474  
Counsel for the Plaintiff  
Law Office Of Michael O. Shea, P.C.  
451 Main Street  
Wilbraham, MA 01095  
Telephone No.: (413)596-8005  
Facsimile No.: (413)596-8095

Dated: August 3, 2006

Local Rule 7.1 Certification

I hereby certify that I have conferred with Defendant's Counsel on this date and that Defendant's Counsel has indicated that they will not assent to the allowance of the within Motion.

/s/ Michael O. Shea  
Michael O. Shea

Certificate Of Service

I hereby certify that a true copy of the foregoing Motion was served upon Counsel for the Defendant, Timothy P. Van Dyke, Edwards, Angell, Palmer & Dodge, LLP, 111 Huntington Avenue, Boston, MA 02199, by electronic filing on this 3<sup>rd</sup> day of August, 2006.

/s/ Michael O. Shea  
Michael O. Shea

# EXHIBIT A

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KATHLEEN MILLER,  
Plaintiff

v.

VERIZON COMMUNICATIONS, INC.,  
Defendant

Civil Action No.: 05-30117-KPN

**PLAINTIFF'S REPLY MEMORANDUM CONCERNING PLAINTIFF'S  
MOTION TO AMEND RULE 56.1 RESPONSE**

The Defendant, in its recent Reply Memorandum in Response to the Plaintiff's Opposition to the Defendant's Motion for Summary Judgment, asserts that the Plaintiff did not sufficiently categorize the Plaintiff's Additional Facts (109 to 287) contained in Plaintiff's Response to Defendant's Statement of Undisputed Facts or make them concise enough. In response, the Plaintiff proposed an Amended Response to Defendant's Statement of Undisputed Facts to further condense and categorize the Plaintiff's Additional Facts and to address the Defendant's concerns.

The Defendant now contends, in its Opposition to the Plaintiff's Motion to Amend her Rule 56.1 Response, that the Defendant would somehow be prejudiced by the allowance of the amendment because the renumbering of the Plaintiff's Additional Facts confuses the paragraph references in the Briefs on file with the Court. This is not true at all, particularly since the proposed amendment does not affect the paragraph references in the Defendant's Memorandum in support of its Motion for Summary Judgment or the Plaintiff's Memorandum in Opposition to the Plaintiff's Motion for Summary Judgment. Nor does the amendment affect the

paragraph references in the Defendant's Memorandum in support of its Motion to Strike or the Plaintiff's Opposition to said Motion to Strike.

The Plaintiff's Opposition to the Motion to Strike specifically identifies the five or so Paragraphs of the Additional Facts in the Amended Plaintiff's Rule 56.1 Response that the Defendant seeks to strike. Therefore, completely contrary to the Defendant's assertions, there would be no confusion with the allowance of this simple amendment to the Plaintiff's Additional Facts.

Lastly, Defendant's Counsel seems to be suggesting that the Plaintiff, in her proposed Amended Rule 56.1 Response, has added facts and evidence. However, this is untrue. The Plaintiff has not added facts or evidence. Rather, the Plaintiff has simply taken the same Additional Facts and condensed them further and categorized them with headings. The allowance of the amendment would only serve to add clarity to the pleadings and amendments to pleadings. Such amendments are routinely allowed, particularly to assist the Court. Furthermore, the Defendant would not be prejudiced by the allowance of the amendment.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court allow the Plaintiff's Motion to Amend her Rule 56.1 Response.

The Plaintiff  
KATHLEEN MILLER

By: /s/ Michael O. Shea  
Michael O. Shea, Esq.  
BBO No. 555474  
Counsel for the Plaintiff  
Law Office Of Michael O. Shea, P.C.  
451 Main Street  
Wilbraham, MA 01095  
Telephone No.: (413)596-8005  
Facsimile No.: (413)596-8095

Dated: August 3, 2006